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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,864	02/27/2004	Michael L. Bolind	30365/39985	7229

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EXAMINER

SOOHOO, TONY GLEN

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/788,864	Applicant(s) BOLIND ET AL.	
	Examiner Tony G. Soohoo	Art Unit 1723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2005.
 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-38 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restrictions

1. Upon reconsideration, of Applicant's election with traverse of Group I apparatus in the reply filed on 6-10-2005, the restriction requirement, mailed 5-17-2005, has outlined the reasons for the establishment of a restriction as the groups do not relate to a single general inventive concept, see paragraphs 1 and 2 of the office action. However, upon a search and reconsideration of the invention, the restriction requirement is hereby withdrawn. All claims, claims 1-38 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7, 19-23, 30-34 are rejected under 35 U.S.C. 102(b) as being anticipated by SNOW, US patent No. 137,496.

The reference to SNOW discloses an agitating mechanism including a housing with top wall portion, bottom wall portion, sidewall portions (left and right of figure 1), and frame members A" B" and rod cables c, and power source E, F powered with steam air.

Art Unit: 1723

4. Claims 1-2, 6, 12, 14-22, 28, 30-34 are rejected under 35 U.S.C. 102(b) as being anticipated by COFFMAN, US patent No. 86,002.

The reference to COFFMAN discloses an agitating mechanism including a housing D, B, B' C with an complementary shaped reciprocating movement agitator O, O, O, P, P' may be driven by an external actuator arm L, K G with a seal bush M. Also the use of elastomeric seal bushings for fluid sealing are old and well known in the art of piston rod seals.

5. Claims 35, 38 are rejected under 35 U.S.C. 102(b) as being anticipated by CONROY, US patent 4,965,031.

The reference to CONROY reference teaches a method of stirring mortar or the like, utilizing the step of providing a housing 1 having a bottom wall, transferring material, gypsum 2 from a source to the tank, fluidizing the material flow fluid through the material (addition of water) and agitating the fluidized material with an agitation mechanism mixer 2 that is moveable between a 1st angular position and 2nd angular rotation position adjacent the bottom wall.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 8-11, 24-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over SNOW, US patent No. 137,496 in view of COFFMAN, US patent No. 86,002.

The reference to SNOW discloses all of the recited subject matter as defined within the scope of the claims with the exception of an actuator are connected through the housing and an expandable seal between the arm and housing. The Snow reference teaches a drive arm within a piston located in the housing.

The reference teaches to COFFMAN teaches that a housing D, B, B' C with an complementary shaped reciprocating movement agitator O, O, O, P, P' may be driven by an external actuator arm L, K G with a seal bush M. Also the use of elastomeric seal bushings for fluid sealing are old and well known in the art of piston rod seals.

Accordingly, it is deemed that it would have been obvious to a person having ordinary skill in the art to modify the drive and actuator arm arrangement of SNOW with an externally mounted actuator arm with an elastomeric expandable seal bushing so as to provide a more ease of repair of the drive mechanism.

8. Claims 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over CONROY, US patent 4,965,031 in view of KATAISHI et al, US patent 4,457,628.

The reference to CONROY discloses all of the recited subject matter as defined within the scope of the claims with the exception of the step of preventing coagulating of material along the bottom of the wall of the housing, and positioning an agitator frame and moving the frame with a path and frequency.

Art Unit: 1723

The reference to KATAISHI et al teaches a mixing arrangement and method for mortar and the like, having a tank 1 and agitator frame 4, 22, 21, 25, which is moved in a reciprocating manner above the bottom of the tank so as to prevent settling of heavy weight material from settling in the tank, column 1, lines 40-41, and prevent foaming of the material.

In view of the teaching of KATIASHI, it is deemed that it would have been obvious to a person having ordinary skill in the art to substitute the agitation method step of the use of an rotary impeller with a reciprocating frame as shown by KATIASHI so that there is a prevention of settling of heavy weight material from settling in the tank and minimizing foaming of the material.

Conclusion

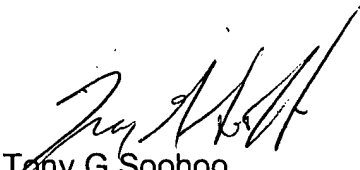
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following disclose gypsum processing devices: George et al 4176157, Rowland 5743954, and 5927968. The following disclose reciprocating agitators along the bottom of a tank: Morehouse 3002627, Harvey 26321, George 350735, Bennett 516623, Cunningham 27276, Penberthy 4195981, Hall et al 3955532, Elkin 5375925, Jablon 3497184, Moulton et al 621,934, Bushnell 1714588, Lozo 168510, Omer 1095591, Kite et al 2261390, Zeigler 147464.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony G. Soohoo whose telephone number is (571) 272 1147. The examiner can normally be reached on 7:00 AM - 5:00 PM, Tues. - Fri..

Art Unit: 1723

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tony G Soohoo
Primary Examiner
Art Unit 1723
